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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,692	10/22/2003	Ahti Muhonen	042933/269767	6127
826	7590	01/14/2008		
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER NGUYEN, QUYNH H	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 01/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/690,692

Applicant(s)

MUHONEN ET AL.

Examiner

Quynh H. Nguyen

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE and amendment filed 11/14/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

2. Applicant's RCE and amendment filed 11/14/07 has been entered. Claims 1-24 have been amended. No claims have been canceled. No claims have been added. Claims 1-24 are still pending in this application, with claims 1, 7, 13, and 19 being independent.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being obvious over Aubault (2005/0086318) in view of Deo (6,157,982) and further in of Silver et al. (2004/0213207).

As to claims 1, 13, and 19, Aubault teaches an apparatus comprising:

a processor configured to receive from a terminal located remote from the apparatus a content status including terminal status information ([0131] - *client /*

terminal transmits cache information to server / network entity), sending to the terminal a response the content status that instructs the terminal to perform one or more actions based upon terminal and server status information ([0074] - [0077]).

Aubault does not explicitly teach receiving the one or more from the processor from the source.

Deo teaches receiving the one or more from the processor from the source based upon the status of the content stored in memory to at least partially control storage of the at least one piece of content in memory of the terminal (col. 3, lines 16-24 - *a computer / network entity remotely issues memory transactions / instructions to a information device, those instructions being based upon the content of the information device's memory*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Deo into the teachings of Aubault for the purpose of decreasing the processing burden of a terminal that has less processing power available than a computer it is networked with, as discussed by Deo (col. 2, line 65 through col. 3, line 4). However, Aubault and Deo do not teach at least one piece of content available from the source for which the processor is configured to control the follow comprise multimedia content.

Silver et al. teaches at least one piece of content available from the source for which the processor is configured to control the follow comprise multimedia content ([0024 - [0025], [0030] - [0034]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Silver into the teachings of Aubault and Deo for the purpose of having a more efficient system and more fully utilize the telephone network and allow users to better utilize their time by enabling one or both parties of a telephone call to view contents of a source computer, as discussed by Silver ([0007]).

As to claims 2, 8, 14, and 20, Aubault teaches the terminal comprises a memory and the processor sends the terminal to delete at least one piece of content from the memory of the terminal ([0076] - [0078] - *the memory does not have sufficient storage capacity for at least one subsequent piece of content*), or download at least one piece of content from the source.

As to claims 3, 5, 9, 11, 15, 17, 21, and 23, Aubault teaches the terminal comprises a memory and the processor sends the terminal to delete at least one piece of content from the memory of the terminal based upon the listing of at least one piece of content stored in the memory of the terminal ([0076] - [0078] - *the memory does not have sufficient storage capacity for at least one subsequent piece of content*).

As to claims 4, 6, 10, 12, 16, 18, 22, and 24, Aubault teaches controlling the terminal to at least one of delete at least one piece of content from the memory of the terminal, and download at least one piece of content from the source ([0076] - [0078] - *the memory does not have sufficient storage capacity for at least one subsequent piece of content*).

As to claim 7, Aubault teaches a controller operable with a terminal including a memory configured to store at least one piece of content ([[0131] - *client terminal transmits cache information to server / network entity*]).

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, 9, 11-39 of copending Application No. 10/690656. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are broader in scope than the claims of the copending application. Omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. In re KARLSON (CCPA) 136 USPA 184 (1963).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

6. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

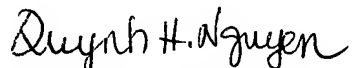
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh H. Nguyen whose telephone number is 571-272-7489. The examiner can normally be reached on Monday - Thursday from 6:30 A.M. to 5:00 P.M. If attempts to reach the examiner by telephone are unsuccessful, the

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examiner's supervisor, Ahmad Matar, can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Quynh H. Nguyen
Primary Examiner
Art Unit 2614